

1 ROBERT A. DOTSON
Nevada State Bar No. 5285
2 JUSTIN C. VANCE
Nevada State Bar No. 11306
3 DOTSON LAW
5355 Reno Corporate Dr., Ste 100
4 Reno, Nevada 89511
Tel: (775) 501-9400
5 Email: rdotson@dotsonlaw.legal
6 jvance@dotsonlaw.legal
Attorneys for Defendant,
7 Washoe County School District

8 UNITED STATES DISTRICT COURT

9 DISTRICT OF NEVADA

10 TRINA OLSEN,

11 Plaintiff,

12 vs.

13 WASHOE COUNTY SCHOOL
DISTRICT, a political subdivision of the
14 State of Nevada; Washoe County School
District Superintendent TRACI DAVIS;
15 and DOES 1 through 10, inclusive,

16 Defendants.

Case No.:

**PETITION AND NOTICE OF
REMOVAL OF COMPLAINT TO
UNITED STATES DISTRICT
COURT**

18 TO: THE HONORABLE JUDGES OF THE ABOVE-ENTITLED COURT

19 PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and
20 1446(a), Defendant Washoe County School District (“WCSD” or “Defendant”) hereby
21 petitions the Court for removal of the action described below from the Second Judicial
22 District Court of the State of Nevada in and for the County of Washoe, to this Court, the
23 United States District Court for the District of Nevada. Removal is based on federal
24 question jurisdiction because a federal question appears on the face of the initial pleading
25 filed by Trina Olsen (“Olsen” or “Plaintiff”). In support of its Notice, Defendant states as
26 follows:

27 ///

1 **I. INTRODUCTION**

2 This is a civil action over which this Court has original jurisdiction under 28
3 U.S.C. § 1331, and one which may be removed to this Court pursuant to the provisions of
4 28 U.S.C. § 1441. Suit has been brought in this case under 42 U.S.C. § 1983 for the
5 violation of due process rights arising under the Fifth and Fourteenth Amendments to the
6 United States Constitution, in addition to state law claims of due process under the Nevada
7 Constitution and tortious discharge.

8 **II. PROCESS, PLEADINGS, AND ORDERS RECEIVED BY WASHOE
COUNTY SCHOOL DISTRICT**

9 Defendant WCSD was served with a Verified Complaint, Motion for Preliminary
10 Injunction, Amended Verified Complaint, and Summons on October 4, 2019, a copy of
11 which is attached hereto as **Exhibit 1** in accordance with 28 U.S.C. § 1446(a).

12 **III. THE COURT HAS JURISDICTION UNDER 28 U.S.C. § 1331**

13 As noted above, Plaintiff alleges the violation of 42 U.S.C. § 1983 and federal due
14 process under the Fifth and Fourteenth Amendments to the United States Constitution.
15 Therefore, federal question jurisdiction exists over Plaintiff's claims under 28 U.S.C. §
16 1331 because the resolution of Plaintiff's claims will require the adjudication of disputed
17 questions of federal law.

18 Under 28 U.S.C. § 1441, Defendant has a statutory right to remove a case from
19 state court to a United States District Court where that case could have originally been
20 filed in federal court. To the extent the Amended Complaint alleges state statutory,
21 common law, or other non-federal claims, this Court has supplemental jurisdiction over
22 any such claims under 28 U.S.C. § 1367 because those claims arise out of the same
23 operative facts as Plaintiff's claims of violation of federal due process under the United
24 States Constitution and 42 U.S.C. § 1983 and "form part of the same case or controversy
25 under Article III of the United States Constitution." 28 U.S.C. § 1367(a).

26 Because, as stated above, Plaintiff's Section 1983 and federal due process claims
27 arise under the laws of the United States, removal of this entire case is appropriate under 28
28 U.S.C. § 1441(a)-(c).

1 **IV. REMOVAL TO THIS COURT IS PROPER**

2 This action is pending in the Second Judicial District Court of the State of Nevada
3 in Washoe County, Nevada. This Court includes and embraces Washoe County. *See* 28
4 U.S.C. § 108. This Court is therefore the proper court to which the action should be
5 removed. *See* 28 U.S.C. §1441(a).

6 Additionally, this Notice of Removal is timely because it was filed within 30 days
7 after receipt of the Summons and Complaint by Defendant. *See* 28 U.S.C. § 1446(b). As
8 demonstrated in **Exhibit 1**, Plaintiff filed a Verified Complaint and Motion for
9 Preliminary Injunction on September 30, 2019 and an Amended Verified Complaint on
10 October 1, 2019. These documents were served on WCSO on October 4, 2019. *Id.* The
11 United States Supreme Court has held that the 30-day removal period for a complaint that
12 is removable on its face cannot be triggered until the defendant has been served with legal
13 process. *See Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347-348. 119 S.
14 Ct. 1322, 1325 (1999). This Notice is filed within 30 days of service and is therefore
15 timely.

16 Venue is proper in this case pursuant to 28 U.S.C. §1441(a) and 1446(a) because the
17 U.S. District Court for the District of Nevada is the federal judicial district embracing the
18 Second Judicial District Court in Washoe County, Nevada, where Plaintiff's Complaint was
19 filed.

20 Written notice of the removal will be served on all other parties, and Defendant will
21 timely file a Notice of Removal in the Second Judicial District Court of the State of Nevada
22 in and for the County of Washoe, a true and correct copy of which is attached hereto as
23 **Exhibit 2**. *See* 28 U.S.C. § 1446(d). Defendant reserves the right to amend or supplement
24 this Notice of Removal if necessary.

25 If any question arises as to the propriety of the removal of this action, Defendant
26 respectfully requests the opportunity to present a brief and oral argument in support of its
27 position that this case is removable.

1 **V. CONCLUSION**

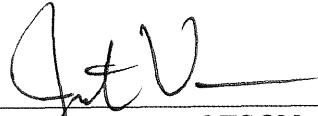
2 For the foregoing reasons, Defendant Washoe County School District respectfully
3 requests that this action be removed from the Second Judicial District Court of the State of
4 Nevada in and for the County of Washoe, to the United States District Court for the
5 District of Nevada, that this Court assume jurisdiction of this civil action, and that this
6 Court enter such other and further orders as may be necessary to accomplish the requested
7 removal.

8 **Affirmation Pursuant to NRS 239B.030**

9 The undersigned does hereby affirm that the preceding document does not contain
10 the social security number of any person.

11 DATED this 1st day of November, 2019.

12 DOTSON LAW

13 

14 ROBERT A. DOTSON
15 Nevada State Bar No. 5285
16 JUSTIN C. VANCE
17 Nevada State Bar No. 11306
18 5355 Reno Corporate Dr., Ste 100
19 Reno, Nevada 89511
20 (775) 501-9400
21 Attorneys for Defendant,
22 Washoe County School District
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CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I hereby certify that I am an employee of DOTSON LAW
and that on this date I caused to be served a true and correct copy of the foregoing by:

☒ (BY MAIL) on all parties in said action, by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below. At Dotson Law, mail placed in that designated area is given the correct amount of postage and is deposited that same date in the ordinary course of business, in a United States mailbox in the City of Reno, County of Washoe, Nevada.

☒ By electronic service by filing the foregoing with the Clerk of Court using the CM/ECF system, which will electronically mail the filing to the following individuals.

☐ (BY PERSONAL DELIVERY) by causing a true copy thereof to be hand delivered this date to the address(es) at the address(es) set forth below.

☐ (BY FACSIMILE) on the parties in said action by causing a true copy thereof to be telecopied to the number indicated after the address(es) noted below.

☒ Email.

addressed as follows:

Luke A. Busby
Luke Andrew Busby, Ltd.
316 California Ave., # 82
Reno, NV 89509
luke@lukeandrewbusbyltd.com

DATED this 1 day of November, 2019.



L. MORGAN BOGUMIL

INDEX OF EXHIBITS

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